

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming  
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

This Document Relates to All Actions.

**LAURA ALVORD,**

**PLAINTIFF,**

**VS.**

**3M COMPANY AND ARIZANT  
HEALTHCARE, INC.,**

**DEFENDANTS,**

**FIRST AMENDED MASTER SHORT  
FORM COMPLAINT AND JURY  
TRIAL DEMAND**

1. Plaintiff, Laura Alvord, states and brings this civil action in MDL No. 15-2666, entitled *In Re: Bair Hugger Forced Air Warming Products Liability Litigation*. Plaintiff is filing this Short Form Complaint as permitted by Pretrial Order #8 of this Court.

**PARTIES, JURISDICTION AND VENUE**

2. Plaintiff, Laura Alvord, is a resident and citizen of the State of Tennessee and claims damages as set forth below.

3. Plaintiff's Spouse, \_\_\_\_\_, is a resident and citizen of the State of \_\_\_\_\_, and claims damages as set forth below.

4. Jurisdiction is proper based upon diversity of Citizenship.

5. Proper Venue: The District Court in which remand trial is proper and where this Complaint would have been filed absent the direct filing order by this Court is the Middle District of Tennessee.

6. Plaintiff brings this action:

X On behalf of herself;

                 In a representative capacity as the \_\_\_\_\_ of the  
                 having been duly appointed as the  
                 by the \_\_\_\_\_ Court of \_\_\_\_\_.

~~A copy of the Letters of Administration for a wrongful death claim is annexed hereto if such letters are required for the commencement of such a claim by the Probate, Surrogate or other appropriate court of the jurisdiction of the decedent.~~

### **FACTUAL ALLEGATIONS**

7. On or about February 22, 2017, Plaintiff underwent surgery during which the Bair Hugger Forced Air Warming system (hereinafter “Bair Hugger”) was used during the course and scope of her surgery at Centennial Medical Center, 2300 Patterson Street, in Nashville, Tennessee by Dr. Lucas Burton.

8. Contaminants introduced into Plaintiff’s open surgical wound as a direct and proximate result of use of the Bair Hugger during the subject surgery resulted in Plaintiff developing a periprosthetic joint infection (“PJI”), also known as a deep joint infection (“DJI”). Plaintiffs’ medical records indicate Staphylococcus epidermidis was discovered.

9. As a result of Plaintiff’s infection caused by the Bair Hugger, Plaintiff has undergone a two staged procedure on or about January 12, 2018, and March 14, 2018, at Centennial Medical Center, 2300 Patterson Street, in Nashville, Tennessee by Dr. Lucas Burton.

## **ALLEGATIONS AS TO INJURIES**

10. (a) Plaintiff claims damages as a result of:

- INJURY TO HERSELF  
 INJURY TO THE PERSON REPRESENTED  
 WRONGFUL DEATH  
 SURVIVORSHIP ACTION  
 ECONOMIC LOSS

(b) Plaintiff's spouse claims damages as a result of:

- LOSS OF SERVICES  
 LOSS OF CONSORTIUM

11. Defendants, by their actions or inactions, proximately caused the injuries to Plaintiff.

## **DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY**

12. The following claims and allegations are asserted by Plaintiff and are herein adopted by reference>

- FIRST CAUSE OF ACTION - NEGLIGENCE;  
 SECOND CAUSE OF ACTION - STRICT LIABILITY;  
 FAILURE TO WARN  
 DEFECTIVE DESIGN AND MANUFACTURE  
 THIRD CAUSE OF ACTION – BREACH OF EXPRESS WARRANTY;  
 FOURTH CAUSE OF ACTION- BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY LAW OF THE STATE OF TENNESSEE, TENN. CODE ANN. §§ 47-2-314, ET SEQ.

- X FIFTH CAUSE OF ACTION- VIOLATION OF THE  
MINNESOTA PREVENTION OF CONSUMER FRAUD ACT;
- X SIXTH CAUSE OF ACTION – VIOLATION OF THE  
MINNESOTA DECEPTIVE TRADE PRACTICES ACT;
- X SEVENTH CAUSE OF ACTION- VIOLATION OF  
THE MINNESOTA UNLAWFUL TRADE PRACTICES ACT;
- X EIGHTH CAUSE OF ACTION- VIOLATION OF THE  
MINNESOTA FALSE ADVERTISING ACT;
- X NINTH CAUSE OF ACTION- CONSUMER FRAUD AND/OR  
UNFAIR AND DECEPTIVE TRADE PRACTICES UNDER  
LAW OF THE STATE OF TENNESSEE, TENN. CODE ANN.  
§§ 47-18-101, ET SEQ.
- X TENTH CAUSE OF ACTION – NEGLIGENT  
MISREPRESENTATION;
- X ELEVENTH CAUSE OF ACTION- FRAUDULENT  
MISREPRESENTATION;
- X TWELFTH CAUSE OF ACTION – FRAUDULENT  
CONCEALMENT;
- \_\_\_\_\_ THIRTEENTH CAUSE OF ACTION – LOSS OF  
CONSORTIUM; and
- X FOURTEENTH CAUSE OF ACTION – UNJUST  
ENRICHMENT.

In addition to the above, Plaintiff asserts the following additional causes of action  
under applicable state law:

Punitive damages

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## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. For compensatory damages;
2. Punitive damages;
3. Pre-judgment and post-judgment interest;
4. Statutory damages and relief of the state whose laws will govern this action;
5. Costs and expenses of this litigation;
6. Reasonable attorneys' fees and costs as provided by law;
7. Equitable relief in the nature of disgorgement;
8. Restitution of remedy Defendants' unjust enrichment; and
9. All other relief as the Court deems necessary, just and proper.

## **JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury as to all claims in Complaint so triable.

Dated: August 9, 2023

Respectfully submitted,

**MESHBESHER & SPENCE, LTD.**

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